

9 Transcript of excerpt of testimony of
10 Jose Gomez
11 May 2, 2018, and May 3, 2018

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May 2, 2018

THE COURT: All right. Does the Government have its next witness or evidence?

MS. ARMIJO: Yes, Your Honor. The United States will call Jose Gomez.

THE COURT: Mr. Gomez, if you'll come up and stand next to the witness box on my right, your left, before you're seated, my courtroom deputy, Ms. Bevel, will swear you in.

JOSE GOMEZ,

11 after having been first duly sworn under oath,
12 was questioned, and testified as follows:

13 THE CLERK: Please state your name and
14 spell your last name for the record.

15 | THE WITNESS: Jose Gomez.

16 THE COURT: All right, Mr. Gomez.

17 Ms. Armijo.

DIRECT EXAMINATION

19 BY MS. ARMIJO:

20 Q. Mr. Gomez, how old are you?

21 A. 37.

22 Q. And are you now or have you ever been a
23 member of the SNM?

24 A. Yes.

25 Q. I'm sorry, you know what I'm going to have

1 you do is pull the microphone a little bit, maybe.
2 Let's try that. And if not, we'll move it up, just
3 so we can hear you. What was your answer? Yes?

4 A. Yes.

5 Q. And I am going to ask you, where did you
6 grow up? What area?

7 A. In between the area of Belen, Los Lunas,
8 and Albuquerque. In between, but mostly in Valencia
9 County.

10 Q. Do you recall, were you in a gang, a
11 street gang, before you went to prison?

12 A. Yes.

13 Q. What street gang were you in?

14 A. 18th Street.

15 Q. I'm sorry?

16 A. 18th Street.

17 Q. And where was 18th Street located?

18 A. All over the state.

19 Q. All over the state. In the area that you
20 grew up in, was there a rival gang?

21 A. Yes.

22 Q. What was that rival gang?

23 A. There was a couple, but one was East Side
24 Locos.

25 Q. Now, do you know a person by the name of

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1 Joe Gallegos?

2 A. Yes.

3 Q. And how do you know Joe Gallegos?

4 A. I grew up with them. They were friends of
5 the family. I was friends with them for several
6 years, since I was small.

7 Q. When you say "them," who are you referring
8 to?

9 A. The Gallegos family.

10 Q. The Gallegos family. Is there more
11 than -- does Joe Gallegos have any brothers?

12 A. Yes.

13 Q. Who are his brothers?

14 A. I believe Andrew, Frankie, Ben, and Tony.

15 Q. Which one were you close in age to?

16 A. I believe Andrew.

17 Q. And do you know whether or not -- now, you
18 indicated that you were an SNM member. Do you know
19 whether or not Joe Gallegos is an SNM member?

20 A. Yes.

21 Q. And is he?

22 A. Yes.

23 Q. Do you see him in the courtroom today?

24 And I'll get out of your way so you can see the
25 courtroom.

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1 A. Yes.

2 Q. Okay. And where is he seated?

3 MS. ARMIJO: Did he stand up?

4 MR. BENJAMIN: Yes.

5 BY MS. ARMIJO:

6 Q. Okay. Sorry. May the record reflect --
7 was the person that stood up -- is that Joe
8 Gallegos?

9 A. Yes, ma'am.

10 MS. ARMIJO: May the record reflect
11 identification of Joe Gallegos?

12 THE COURT: The record will so reflect.

13 BY MS. ARMIJO:

14 Q. Okay. You mentioned an Andrew Gallegos?

15 A. Yes.

16 Q. Do you see Andrew in the courtroom today?

17 A. Yes.

18 Q. Where is he?

19 A. Right there.

20 Q. You said, "Over there," and you pointed to
21 your left. What is he wearing?

22 A. I believe a light purple shirt, glasses.

23 Q. I'm sorry?

24 A. A light purple shirt.

25 Q. And glasses?

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1 MS. ARMIJO: May the record reflect
2 identification of Andrew Gallegos?

3 THE COURT: The record will so reflect.

4 BY MS. ARMIJO:

5 Q. And do you know if Andrew Gallegos went by
6 any nickname?

7 A. Smiley.

8 Q. Now, do you know, is there a term that is
9 used within the SNM to refer to other members?

10 A. Yes.

11 Q. And what is that term?

12 A. A carnal.

13 Q. A what?

14 A. A carnal.

15 Q. And do you know whether Andrew Gallegos is
16 an SNM member?

17 MR. BENJAMIN: Your Honor, can I ask --
18 and I apologize, sir -- can I ask Mr. Gomez to speak
19 a little more in the microphone?

20 THE COURT: I think you are going to have
21 to speak up.

22 THE WITNESS: I'm trying to do the best I
23 can, Your Honor.

24 THE COURT: I know. But if you'll just
25 work real hard to be as loud as you can, I'm having

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1 a little trouble hearing you, and I imagine
2 Mr. Benjamin is having some trouble. So a little
3 louder.

4 Ms. Armijo.

5 BY MS. ARMIJO:

6 Q. Do you know if Andrew Gallegos is an SNM
7 member?

8 A. I do believe at one point he tried to
9 become one.

10 MR. ROBERTS: Your Honor, I'm going to
11 object. It's based on hearsay.

12 THE COURT: You'll have to lay some
13 foundation here, because it's not coming out that he
14 knows a lot.

15 BY MS. ARMIJO:

16 Q. Let me ask this question. Did you ever
17 spend time with Andrew Gallegos while incarcerated?

18 A. Yes.

19 Q. Did you ever hear anybody refer to him as
20 carnal or Andrew Gallegos talk to anybody as carnal?

21 A. Yes.

22 Q. Now, you mentioned a Frankie Gallegos?

23 A. Yes.

24 Q. Does he have a nickname?

25 A. Cunte.

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1 Q. Do you know if he is an SNM member?

2 A. Yes.

3 Q. Is he?

4 A. Yes.

5 Q. Now, I want to go back to -- well, no,
6 first I'm going to talk a little bit about your
7 criminal history.

8 MS. ARMIJO: Your Honor, at this time I'm
9 going to move for the admission of Exhibit 839,
10 without objection.

11 THE COURT: Any objection, Mr. Benjamin?

12 MR. BENJAMIN: No, Your Honor.

13 THE COURT: Anyone else? Not hearing any
14 objection, Government's Exhibit 839 will be admitted
15 into evidence.

16 (Government Exhibit 839 admitted.)

17 BY MS. ARMIJO:

18 Q. Mr. Gomez, do you have felony convictions?

19 A. Yes.

20 Q. And I'm going to first go to Bates stamp
21 9226 from Exhibit 839. What we're looking at here
22 is an order and commitment to the Department of
23 Corrections. Can you see that on the screen?

24 A. Yes.

25 Q. This is from 2006; is that correct?

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1 A. Yes.

2 Q. Okay. And it indicates here that you were
3 convicted of criminal sexual penetration and
4 kidnapping; is that correct?

5 A. Yes.

6 Q. And what were the circumstances of this
7 felony offense?

8 A. One of my children's mother was underage,
9 and we continued our relationship. I guess her
10 parents and the family weren't in agreement with us
11 being together. She was underage, and I wasn't.

12 Q. All right. And does this conviction stem
13 out of that relationship?

14 A. Yes.

15 Q. Now, do you recall -- and let's go to the
16 next page. And does it appear that you were to
17 serve 1,825 days of actual imprisonment? Is that
18 what that indicates?

19 A. Yes.

20 Q. And does that sound about right, about the
21 amount of time that you spent incarcerated?

22 A. Yes.

23 Q. I'm also going to go to the next page. Do
24 you have a felony conviction for attempted
25 aggravated battery on a household member?

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1 A. Yes.

2 Q. And do you recall what the sentence was in
3 that case? If we can go to the next page. Does it
4 indicate on Bates page 9229 that you were to serve
5 135 days of actual imprisonment?

6 A. Yes.

7 Q. Then if we could go to the next page. In
8 2011, did you have another felony conviction, as you
9 can recall?

10 A. Yes.

11 Q. And if we can go to the next page, was it
12 for possession of a controlled substance?

13 A. Yes.

14 Q. Now, do you recall -- I'm going to go back
15 to 2015. Do you recall where you were living back
16 during that time period?

17 A. Yes.

18 Q. Where were you living?

19 A. In Los Lunas.

20 Q. At some point in time, were you staying at
21 a house -- and you said in Los Lunas. At some point
22 in time, did you ever come to stay at a residence
23 that was associated with Joe Gallegos?

24 A. Yes.

25 Q. Can you tell us how that came to be?

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1 A. He was in jail at the time. At that time
2 we were actually friends, and my girlfriend and his
3 girlfriend were talking on a daily basis. She would
4 give us rides and stuff. We moved out of the
5 residence we were at, and we at the time didn't have
6 a place to go. They offered us a place to stay.

7 Q. Who is "they"?

8 A. Joe and his girlfriend.

9 Q. Okay.

10 A. And I'd watch over his house while he was
11 in jail and give him a small fee for staying there.

12 Q. What was the last part of that? A small
13 fee?

14 A. A small fee, rent, whatever.

15 Q. And so where did you then go live?

16 A. At Joe's residence.

17 Q. And what was the agreement as far as the
18 rent?

19 A. I paid his girlfriend money for his
20 commissary or gave her other stuff for whatever
21 she -- whatever she needed.

22 Q. Okay. When you say "other stuff," would
23 that include drugs?

24 A. Yeah.

25 Q. And I guess I'll ask at this point, have

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1 you in the past ever been a drug user?

2 A. Yes.

3 Q. What drugs have you used?

4 A. Heroin.

5 Q. And when was the last time you used
6 heroin, approximately?

7 A. A year or longer.

8 Q. I'm sorry?

9 A. A year or longer.

10 Q. And are you currently on any Suboxone or
11 methadone or any sort of treatment?

12 A. No.

13 Q. Now, you said you were going to pay his
14 girlfriend. Who was that girlfriend?

15 A. Her name was Mary Crampton.

16 Q. And did that arrangement continue?

17 A. Yeah, a few weeks.

18 Q. And then did something happen?

19 A. Yeah.

20 Q. What happened?

21 A. I just believe that she wasn't bringing
22 messages to Joe the way I was telling her to, or I
23 don't believe he was receiving the actual payments
24 or whatever I was giving her. She was hiding things
25 from him. So then whenever I confronted her and

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1 stopped doing everything, she went and made up lies
2 to Joe that caused conflict between me and him.

3 MR. BENJAMIN: Objection.

4 THE COURT: Hold on. You'd better ask
5 another question.

6 BY MS. ARMIJO:

7 Q. Let me break it down. And I don't want to
8 get into what people said or what somebody told you.
9 Let's just get into what your belief was. At some
10 point did the relationship with Mary kind of go
11 south?

12 A. Yes.

13 Q. And did that affect your relationship with
14 Joe Gallegos?

15 A. Yes.

16 Q. Did you call Joe Gallegos "Joe Gallegos,"
17 or does he have a middle name that people refer to
18 him as?

19 A. Joe Lawrence.

20 Q. Joe Lawrence. And how did you refer to
21 him as?

22 A. Exactly that.

23 Q. Joe Lawrence? Okay. So at some point,
24 there were things going on with this relationship,
25 and is it fair to say -- and I don't want to get

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1 into what she told you or anything -- did you feel
2 you could trust Mary?

3 A. No.

4 Q. And did you stop doing what you had told
5 Joe Lawrence you were going to do as far as giving
6 her money and providing her with drugs?

7 A. Yes.

8 Q. And did that cause problems? Well, did
9 you believe whether or not it caused problems with
10 your relationship with Joe Lawrence?

11 A. Yes.

12 Q. At some point in time was there a
13 situation where Joe Lawrence and you actually had
14 contact with each other about that incident?

15 A. Yes.

16 Q. And did you receive an injury after that?

17 A. Yeah.

18 Q. Okay, so I'm going to go to March 17 of
19 2015. Where were you? Were you still living in
20 that area at the time?

21 A. Yes.

22 Q. Were you staying in Joe Lawrence's house
23 or did you already move out?

24 A. I moved out already.

25 Q. Do you recall what happened that day? Was

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1 there an interaction that day?

2 A. Yes. We met up at a mutual friend's
3 house. And he didn't know I was there. I didn't
4 know he was coming. And when our presence crossed
5 each other, sparks flew, and we got into it. He
6 pulled out a knife, and I defended myself. The cops
7 were called by the neighbors and the owner of the
8 residence. We both went our own ways. That was it.

9 Q. Okay. And was there -- and do you recall
10 exactly when that was? Let me ask you this. Was
11 there an incident that involved a blue Charger?

12 A. Yes, that was that day.

13 Q. That was that day?

14 A. Yes.

15 Q. Okay. Now, you said that -- how was the
16 blue Charger involved?

17 A. That's what he was in.

18 Q. Okay. You said you were at a friend's
19 house. So did this happen inside a location or
20 outside?

21 A. Outside in the driveway.

22 Q. Okay. And I'm going to show you -- all
23 right. If we could display 544.

24 Does this vehicle look familiar to you?

25 A. Yes. That's the one he was in.

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1 Q. Okay. Was he a passenger, or was he
2 driving?

3 A. I believe he was driving that day.

4 Q. Okay. Do you recall if there was another
5 individual with him?

6 A. Yes.

7 Q. Do you even know who the individual was?

8 A. Yes.

9 Q. Who was the individual?

10 A. I don't know his last name, but I know his
11 first name was Brandon.

12 Q. And in reference to the incident, were you
13 in a vehicle or were you just on the street?

14 A. No, I was inside the actual residence. I
15 came out to open the gate for the female that was
16 with him, and he seen me, and I seen him, and
17 that's --

18 Q. Okay. Okay. So you went outside, and do
19 you recall the name of the female that he was with?

20 A. Sepphira.

21 Q. Sepphira? And then were you surprised to
22 see Joe Lawrence?

23 A. We both were.

24 Q. And what did Joe Lawrence tell you when he
25 saw you?

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1 A. I can't recall exactly, but we exchanged a
2 few words.

3 Q. Can you tell us what those words were?

4 A. I don't recall at this time. I really
5 don't.

6 Q. Okay.

7 MS. ARMIJO: If I may have a moment, Your
8 Honor?

9 THE COURT: You may.

10 BY MS. ARMIJO:

11 Q. Do you recall talking to me on the phone
12 on April 3 of this year?

13 A. Yes.

14 Q. And was I here in Las Cruces, as best that
15 can you tell?

16 A. Yes.

17 Q. And were you with Special Agent Acee when
18 we had this conversation?

19 A. Yes.

20 Q. All right. And was I asking you questions
21 in reference to your testimony today?

22 A. Yes.

23 Q. And do you know, as far as when -- prior
24 to this incident, I should say, did you have a
25 conversation with anybody as far as -- let me ask

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1 this question. Do you know what a green light is?

2 A. Yes.

3 Q. Within the SNM?

4 A. Yes.

5 Q. What is a green light?

6 A. That means there is a target on your life.

7 Q. And prior to this incident, did you
8 believe you had a green light out on you?

9 A. Yes.

10 MR. BENJAMIN: Objection, vague and
11 foundation, Your Honor. Vague as to incident, and
12 foundation for the belief.

13 THE COURT: Well, if he has a belief that
14 he had a green light, I'll let him testify.
15 Overruled.

16 MR. BENJAMIN: Your Honor, could I get a
17 clarification on the incident?

18 THE COURT: Well, are you going to ask
19 more questions?

20 MS. ARMIJO: Yes.

21 MR. BENJAMIN: Thank you.

22 BY MS. ARMIJO:

23 Q. You believe that you had a green light out
24 on you?

25 A. Yes.

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1 Q. And why did you believe you had a green
2 light out on you?

3 A. Because of the incident that was going on
4 with me and Joe Lawrence. And that's what -- the
5 rumors were just spreading around to everybody that
6 he was stating.

7 MR. BENJAMIN: Objection, Your Honor.
8 That was a lack of foundation. Rumors.

9 THE WITNESS: It's not a rumor. It was
10 actually told to me by him as well.

11 THE COURT: He's testifying, I think, as
12 to what Mr. Joe Gallegos said.

13 MS. ARMIJO: Okay. And I guess --

14 MR. BENJAMIN: Your Honor, respectfully,
15 Your Honor, I'd object to nonresponsive. Then two,
16 that was not his answer. His answer was rumors,
17 until I objected.

18 THE COURT: Well, he did end up testifying
19 that Mr. Joe Gallegos said it directly to him.

20 BY MS. ARMIJO:

21 Q. Now, I don't want to hear what people told
22 you. Initially did you hear something about -- and
23 I want to get what you heard specifically. Did you
24 hear something about what Joe Gallegos was saying?

25 A. Yes.

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1 Q. Did you later have a conversation with Joe
2 Gallegos about what he believed people were saying
3 about him and your relationship?

4 A. Yes.

5 Q. Did Joe Gallegos tell you anything about
6 that?

7 A. Yeah.

8 Q. What did he tell you?

9 A. Exactly that, that it was true, and I
10 better watch out.

11 Q. And that what?

12 A. And I better watch out.

13 Q. Okay. Did he tell that you he put a green
14 light out on you?

15 A. Yes.

16 Q. And what was the basis for that green
17 light?

18 A. For whatever fallouts I had with his
19 girlfriend at the time when I was staying at his
20 residence, just all this led up to everything that
21 happened to me.

22 Q. Now, when he told you that there was a
23 green light out on you, did you respond back to him?

24 A. Yeah.

25 Q. What did you tell him?

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1 A. I told him, "Who are you to have the power
2 to be putting green lights on people? You don't
3 have the okay to be doing that."

4 Q. Are there certain rules that usually go
5 about when you put green lights out on people within
6 the SNM?

7 A. Yes.

8 Q. Was that something that you were
9 questioning about, whether or not the green light
10 was valid from him?

11 A. Yes.

12 Q. And what did he tell you in reference to
13 your questioning the validity of the green light?

14 A. He said, "It doesn't matter, fool. You're
15 done."

16 Q. Now, was that over -- was that -- when was
17 that conversation with Joe Lawrence in comparison to
18 the incident with the Charger?

19 A. Can you repeat that again? I'm sorry.

20 Q. Sure. You just talked about a
21 conversation that you had with Joe Lawrence?

22 A. Yes.

23 Q. Now, when was that conversation that you
24 had with him? Was it that same day, or was it
25 before, as far as the day that we're talking about

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1 when you two ran into each other and he was in the
2 blue Charger?

3 A. It was -- it was later, after that.

4 Q. It was after that?

5 A. Yeah.

6 Q. Okay. So let's get back to the blue
7 Charger incident. Did Joe Gallegos -- you said he
8 had a knife; is that correct?

9 A. Yes.

10 Q. And did he do anything with the knife to
11 your hand?

12 A. Just swung it around. We were dancing in
13 circles for a second, and he swung. I tried to
14 block it, and that's what happened.

15 Q. Okay. And he swung it at you?

16 A. Yeah.

17 Q. And what were you doing with your hands at
18 the time?

19 A. Blocking myself.

20 Q. Blocking yourself?

21 A. Yeah.

22 Q. And when you were -- after this incident,
23 did you just stay there or did you take off running?

24 A. We both fled. We both fled as the owner
25 of the residence said not to be doing that, that the

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1 cops were already called. The neighbors across the
2 street had already stated they had already called
3 the cops, and sirens were going and everybody went
4 their way that fast.

5 Q. Did you eventually call 911?

6 A. Yes.

7 Q. And did you indicate that you had been
8 injured?

9 A. Yes.

10 Q. Now -- and then after that, how was it
11 that you had a conversation with Joe Lawrence? Was
12 it in person or was it over the phone?

13 A. It was a really brief conversation. I
14 don't know about conversation, but more or less just
15 exchanging a few words.

16 Q. Okay. Exchanging a few words about the
17 green light?

18 A. Yeah, and that was it.

19 Q. And is that when he told you that you were
20 done?

21 A. Yeah.

22 MR. BENJAMIN: Objection, Your Honor.

23 Leading.

24 THE COURT: Overruled.

25

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1 BY MS. ARMIJO:

2 Q. And that was in approximately March of
3 2015?

4 A. Yes.

5 Q. I'm going to -- were you aware of whether
6 or not he was actually charged with that incident?

7 A. I wasn't aware.

8 Q. You're not aware?

9 A. I wasn't aware.

10 Q. Okay. I'm going to go forward a little
11 bit to February of 2016, late February. Do you
12 recall where you were living -- or where you were
13 staying, I should say?

14 A. In Los Chavez.

15 Q. I'm sorry?

16 A. Still in Los Chavez or --

17 Q. Okay. Do you know, did you know somebody
18 by the name of Brandy Rodriguez?

19 A. Yes.

20 Q. And who is she?

21 A. Another East Side gang member, I guess,
22 whatever you want to say it. Somebody that's real
23 close to Joe Lawrence.

24 Q. And do you know if she had a nickname?

25 A. Huera.

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1 Q. Huera? Do you know what Huera means?

2 A. Yeah, blondie.

3 Q. Okay. Is it blondie or, like, white
4 person?

5 A. White person, pretty much. Same thing.

6 Q. And did you know a person by the name of
7 Shauna Gutierrez?

8 A. Yes.

9 Q. Who was Shauna Gutierrez?

10 A. His girlfriend, Joe Lawrence's girlfriend.

11 Q. And did you know anybody by the name of
12 Oso?

13 A. Yes.

14 Q. Who was Oso? And I guess, actually, I
15 should be showing pictures.

16 Could we display 898, please.

17 MS. ARMIJO: At this time I'd like to move
18 in 898 without objection.

19 THE COURT: Any objection? Not seeing or
20 hearing any objection, Government's Exhibit 898 will
21 be admitted into evidence.

22 (Government Exhibit 898 admitted.)

23 BY MS. ARMIJO:

24 Q. Do you recognize that person?

25 A. Yes, ma'am.

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1 Q. And who is he?

2 A. Oso.

3 Q. Oso?

4 A. Yes, ma'am.

5 Q. And do you know him and whether or not he
6 was a member of any gangs?

7 A. I don't know about a street gang, but he's
8 from SNM.

9 Q. Now, I'm going to go specifically -- oh,
10 and just for the record, I'm going to show 895. Who
11 is it we're looking at?

12 A. Brandy.

13 Q. Is that Huera?

14 A. Yeah.

15 Q. 896. Who is it that we're looking at
16 there?

17 A. Shauna.

18 Q. And 897, I'll see if you know this person.
19 Do you know that person?

20 A. Santos.

21 Q. Okay. And did you know that person prior
22 to February 27 of 2016?

23 A. Yes.

24 Q. Now, I'm going specifically to February 27
25 of 2016. Were you at a person by the name of

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1 Charlene Parker's house?

2 A. Yes.

3 Q. In the morning?

4 A. Yes.

5 Q. And what were you doing there?

6 A. I had been there prior doing some
7 restorations of her house and some yard work.

8 Q. And at some point in time -- and was she
9 home?

10 A. No, at the time, no.

11 Q. Did an incident happen that morning?

12 A. Yes.

13 Q. Was she there when the incident occurred?

14 A. Actually, yes, she was.

15 Q. At some point in time had she left before
16 the incident?

17 A. Yes. I had dozed off. I was real tired.
18 She said, "I'll be right back." She was going to
19 get her methadone. And she said, "Go ahead -- you
20 look tired. Go ahead and lay down."

21 I laid down. And I woke up, and all I
22 could see was blood covered on my face.

23 Q. All you could see was what?

24 A. Blood, red, in my eyesight, and hearing
25 voices.

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1 Q. Okay. I'm going to quickly go to Exhibit
2 Number 561. Do you recognize that room?

3 A. Yes.

4 Q. And whose room is that?

5 A. Charlene's.

6 Q. Was that the room that you were asleep in?

7 A. Yes.

8 Q. You indicated that you were asleep, and
9 that you woke up with blood?

10 A. I woke up, I couldn't see; nothing was
11 visible around me, because of the blood that was
12 covering my eyes.

13 Q. Okay. And did you know what had happened
14 at that point?

15 A. Not exactly.

16 Q. Okay. What do you recall -- at some point
17 were you able to hear anything?

18 A. Yes. Things started becoming more clear,
19 and I was getting my vision back. The voices were
20 just echoing, and just kept on hearing, "Where is
21 the money and the dope?"

22 Q. Okay.

23 A. And getting hit more, getting hit more.

24 Q. And do you recall whether -- and were you
25 being hit with anything?

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1 A. Yes.

2 Q. What were you being hit with?

3 A. With a machete and a baton.

4 Q. And where were you being hit?

5 A. In my head, on my body, all over.

6 Q. Do you know who was using the machete?

7 A. Santos had the machete.

8 Q. And who had the baton?

9 A. Oso.

10 Q. And do you recall what Brandy was doing,
11 if anything? Was Brandy there?

12 A. Yes.

13 Q. And what was she doing?

14 A. Talking loud in the background.

15 Q. Okay. And what was she saying?

16 A. And she hit me a couple of times, and that
17 was it.

18 Q. I'm sorry?

19 A. She didn't hit me with a weapon. She hit
20 me a few times, and just kept on exchanging words to
21 me, you know.

22 Q. Now, I want to get into -- what do you
23 recall her saying?

24 A. Her first words, whatever, came out, she
25 said, "Are you going to testify against my jefe?"

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1 Q. Okay. "Are you going to testify against
2 my jefe?"

3 A. Yeah.

4 Q. And do you know -- what was your belief as
5 to who her jefe was?

6 A. Joe Lawrence.

7 MR. BENJAMIN: Object to the foundation.

8 THE COURT: Overruled.

9 BY MS. ARMIJO:

10 Q. And why did you believe that?

11 A. Because at the same time that she was
12 saying that, one of the individuals was in the
13 background saying, "Yeah, you're going to testify
14 against Joe Lawrence."

15 Q. Okay. And so -- and was this going on
16 while you were being attacked?

17 A. Yeah.

18 Q. Do you recall whether anybody else made
19 any statements about a green light?

20 A. Yeah.

21 Q. Okay. Tell us about that.

22 A. Saying that.

23 Q. Do you recall who said it, if it was a
24 male --

25 A. All three of them.

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1 Q. I'm sorry?

2 A. First the males and then the female.

3 Q. Okay. Was there any other female at the
4 house, other than Brandy?

5 A. Yes.

6 Q. Involved in this attack?

7 A. No.

8 THE COURT: Ms. Armijo, would this be a
9 good time for us to take our afternoon break?

10 MS. ARMIJO: Yes, Your Honor, thank you.

11 THE COURT: We'll be in recess for about
12 15 minutes. All rise.

13 (The jury left the courtroom.)

14 THE COURT: All right. We'll be in recess
15 for about 15 minutes.

16 (The Court stood in recess.)

17 THE COURT: All right. I think we have
18 all the defendants back in the courtroom, and we've
19 got an attorney for each defendant. Mr. Blackburn.

20 MR. BLACKBURN: Yes, Judge.

21 THE COURT: I think we've got everybody.
22 While we're getting the jury lined up, let me ask
23 you something for tonight. I'm not saying that --
24 again, I think y'all are working hard, but I'm not
25 quite there yet. So do two things for me. One is:

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1 Whoever has got the master chart, run me off a new
2 one tonight, since we've skipped around on
3 witnesses. So let me see what your chart is. So
4 tomorrow, I expect two charts. One a chart from you
5 telling me this is what y'all -- what your proposal
6 is.

7 And then second -- and I'm not forcing
8 anything tonight; I just want to look at these and
9 compare them tomorrow. I'm still thinking the
10 Government ought to rest by the 18th. Remember last
11 week the Government, when we began these
12 discussions, said they thought they would be resting
13 next week. And so I don't know what happened to
14 cause this now to be in the middle of this week and
15 the Government's case has ballooned. So if it's
16 ballooned a week, that's troubling to me. And if it
17 balloons into next week, it's more troubling to me.

18 So I'm inclined to put a hard deadline on
19 the Government to get it done by the 18th. I've
20 offered three candidates for shortening down or
21 elimination. If the Government wants to call them
22 because they have statements, I can understand that.
23 But I might just have to lean on the Government to
24 not put on enterprise evidence through those
25 witnesses. I know the Government likes to condition

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1 the jury with the enterprise evidence before the
2 defendants get it. That's understandable. But from
3 my vantage point, I just think at this point who is
4 offering what is lost on the jury, and it's
5 sometimes lost on the Court. And I don't think
6 anybody is penalizing anybody. The Government, in
7 particular, not penalizing them because I don't
8 condition the jury with enterprise. So I put that
9 as a low priority.

10 And so perhaps we can squeeze some time
11 out of the direct on those three witnesses and just
12 get in and out as to what the statements are that
13 they receive, rather than using them for any
14 enterprise or racketeering. So what I'd like for
15 you to do, whoever has got the master list, give me
16 your chart, what your current proposal is; then
17 humor me, do me a chart on yours giving a hard
18 deadline of the 18th, and let me see what it looks
19 like.

20 MS. HARBOUR-VALDEZ: Yes, Your Honor.

21 THE COURT: Because I'd like to see what
22 the defendants are going to do with that extra day,
23 because if I can squeeze in some stuff, squeeze it
24 in the next week. Because I'm afraid what's going
25 to happen with your proposal is that jury is not

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1 going to give us a verdict until the 6th of June.

2 All right. All rise.

3 (The jury entered the courtroom.)

4 THE COURT: All right. Everyone be
5 seated. All right. Mr. Gomez, I'll remind you that
6 you're still under oath.

7 Ms. Armijo, if you wish to continue your
8 direct examination of Mr. Gomez, you may do so at
9 this time.

10 MS. ARMIJO: Thank you, Your Honor.

11 THE COURT: Ms. Armijo.

12 BY MS. ARMIJO:

13 Q. All right. Mr. Gomez, I believe we were
14 talking about February 27, 2016, when you were still
15 in the bedroom and you were being attacked.

16 Now, I think I was just asking you about
17 whether or not you heard anything in reference to a
18 green light.

19 A. Yes.

20 Q. What did you hear?

21 A. Saying that I'm done; if I go back to
22 prison, there is a green light on me from Joe
23 Lawrence and the S. And the female was saying:
24 "Are you going to testify against my jefe? Just say
25 you're not going to testify, and they won't kill

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1 you."

2 Q. Okay. "Just say you won't testify and we
3 won't kill you?"

4 A. Yes.

5 Q. At some point did you go unconscious, or
6 what happened?

7 A. I was in and out.

8 Q. And did you ever -- at any point in time,
9 did you ever realize that you'd been left in the
10 room?

11 A. Yes.

12 Q. And when was that?

13 A. When I was starting to try to move around
14 the front of the bed where I was lying on the floor.
15 And I was starting to visualize the room to see
16 maybe if there is some window or something that I
17 could maybe try to maybe run free or something like
18 that; if there was any way possible. That's when I
19 realized the door was shoved behind me. I was
20 pretty much blocked in on the floor.

21 Q. Okay. And you said you were on the floor.
22 And just so that we're clear, I'm going to show
23 Exhibit Number 561 again. All right. Do you see
24 the area where you were at in this picture?

25 A. Yes.

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1 Q. And where is it?

2 A. It's at the foot of the bed on the blue
3 carpet.

4 Q. Okay. And I'm going to circle this area
5 right here. You can't really see the red, too much
6 on the red. Does that appear to be the area?

7 A. Yes. It was actually the corner of the
8 foot of the bed where I was laying.

9 Q. Okay. And what did you -- at some point,
10 were you able to get out of the room?

11 A. Yes. I had tried to figure out a way to
12 where I can get them to get me out of the room
13 somehow.

14 Q. Okay. And what did you do?

15 A. Due to the fact that they were -- kept on
16 hitting me as it went on, telling me, "I know you
17 have drugs and money. I know you have dope and
18 money. I know you. And we were told that you have
19 guns, drugs, and money in the backyard somewhere."

20 So at the beginning, when they were first
21 beating me, I told them, "No, I didn't. I don't
22 know who told you that. I don't."

23 So I said obviously they're high or want
24 something else out of this, so maybe I can get them
25 to -- if I tell them that I had it, then get them to

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1 take me outside.

2 Q. And did you tell them something which led
3 you to go outside?

4 A. Yes, I told them that I'll show them
5 exactly where it's at, that's buried in the
6 backyard.

7 Q. Okay. And so did they go with you
8 outside?

9 A. Yes.

10 Q. And were you -- and what was the point of
11 going outside, in your own mind?

12 A. My point was to get them to take me
13 outside, out of a locked room, to where I thought I
14 was probably going to die. And their point was they
15 really believed that I had that. And I just wanted
16 to break free. That was it. I was going to run
17 regardless. So I was going to take a chance. If
18 they caught me, or whatever, but I was going to take
19 a chance and run.

20 Q. Did you get out in the back yard?

21 A. Yes. They escorted me all the way through
22 the trailer, took me out to the back porch, into the
23 backyard, where I was pointing out where it was
24 supposedly at. As they went into the outside
25 atmosphere, their minds and their eyes were going

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1 crazy because of what was going on, and because they
2 were -- maybe they were high, or whatever. And I
3 was watching all that. So I ran.

4 Q. You ran?

5 A. Yes.

6 Q. Where did you go?

7 A. Jumped a couple fences, went to the
8 neighbors.

9 Q. So you jumped the fence?

10 A. Yes, jumped the fence.

11 Q. Did you land in somebody else's front yard
12 or backyard; do you recall?

13 A. Something like that, I don't recall. But
14 I know it was a yard. I was just continuing to go
15 until somebody was outside, and they seen me covered
16 in blood, and told me to come in and all that, and
17 called the cops and the ambulance, whatever.

18 Q. So you went inside one house?

19 A. Yes.

20 Q. And did you ask them to call the police?
21 The police? Do you know if they were calling the
22 police?

23 A. I told them to call an ambulance.

24 Q. And then did you make it back before the
25 ambulance arrived -- were you trying to get home?

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1 A. Yes, I actually had that owner of the
2 residence who was helping me take me back to my
3 residence.

4 Q. Okay. So how far away was the house that
5 you initially asked them to call for an ambulance to
6 getting to your house? Was it close by?

7 A. Yes, very close.

8 Q. And so did you make it to your house?

9 A. Yes.

10 Q. And when you got to your house, did you
11 immediately go in, or were other family members
12 there?

13 A. Yes.

14 Q. Who was there?

15 A. My mother and my stepfather.

16 Q. Okay. And do you know if your mother
17 actually called 911?

18 A. Yes, she called immediately. She freaked
19 out, almost had a heart attack by seeing the way I
20 was.

21 Q. Now, I'm going to show Exhibit Number 563.
22 Do you recall what this is picture of?

23 A. The top of my head.

24 Q. And was this taken at the hospital, as
25 best you can recall?

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1 A. Yes.

2 Q. Do you still have scars?

3 A. Yes.

4 Q. Now, did you -- were you released right
5 away from the hospital, or did you have to stay?

6 A. I stayed for a little bit.

7 Q. You had to stay?

8 A. Yes.

9 Q. And do you know how they repaired your
10 head?

11 A. I was in unconsciousness and all the
12 medication they had me on, but they did tell me that
13 they were stapling my head.

14 Q. At some point, when you woke up, did you
15 have staples in your head?

16 A. As they started, that's whenever the pain
17 started setting in. So they sedated me more to calm
18 me down. And it did hurt. It was extremely
19 painful. The staples and the wounds, as well.

20 Q. Now, at some point did the FBI come and
21 talk to you?

22 A. Yes.

23 Q. Now, you mentioned that you were an SNM
24 member. At some point did you leave the SNM?

25 A. Yes.

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1 Q. And when was it that you, in your own
2 mind, left the SNM?

3 A. Maybe 2014 or '15.

4 Q. 2014 or '15?

5 A. Yes.

6 Q. And why did you want to get away from
7 them?

8 A. Because they were just destroying my life
9 all the way around. It was no good for me. They're
10 no good for me. Didn't do nothing for me.

11 Q. Now, when you were talking about the first
12 incident involving the blue Charger and what led up
13 to that, you were mentioning something about an
14 agreement that you had with Joe Lawrence Gallegos as
15 far as bringing -- giving money for his books; is
16 that correct?

17 A. Money for his books, for whatever she
18 asked me. She asked me to give drugs or money,
19 either one.

20 Q. Did you give her drugs and money?

21 A. Yes.

22 Q. Did you ever provide her with drugs for
23 Joe Lawrence?

24 A. That's what she said.

25 Q. Okay. Now, at some point were you charged

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1 by the federal government with a drug charge?

2 A. Yes.

3 Q. And do you recall what that was in
4 reference to?

5 A. Conspiracy to distribute.

6 Q. And in fact, did you in the past
7 distribute drugs? Were you involved in
8 drug-trafficking?

9 A. Yes.

10 Q. And were those charges eventually
11 dismissed?

12 A. Yes.

13 Q. At some point in time was there a warrant
14 out for your arrest because of failure to register
15 for your sex offense?

16 A. Yes.

17 Q. And did the FBI have to arrest for you
18 that?

19 A. Yes.

20 Q. Now, what was that -- why did the FBI have
21 to -- I shouldn't say why did the FBI arrest you.
22 Did you know there was a warrant out for your
23 arrest?

24 A. No.

25 Q. What was going on at that point in your

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1 life?

2 A. I had just lost my sister and my mom, and
3 I went off the deep end, starting messing up again
4 and using drugs. And I went out of state try to
5 clean up and get away from everything, and I wasn't
6 aware. It was a short period of time, but I was
7 brought back by the marshals right away.

8 Q. And are you currently facing any charges,
9 or has everything been taken care of?

10 A. Everything was taken care of.

11 Q. And so you're not on release or anything?

12 A. No.

13 Q. And how long have you been drug-free?

14 A. A year or longer.

15 MS. ARMIJO: May I have a moment?

16 THE COURT: You may.

17 MS. ARMIJO: Pass the witness.

18 THE COURT: Thank you, Ms. Armijo.

19 Mr. Benjamin, do you have

20 cross-examination of Mr. Gomez?

21 MR. BENJAMIN: I do, Your Honor. May I
22 have a little bit of indulgence? I have a lot of
23 stuff.

24 THE COURT: Sure, take your time.

25

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1 CROSS-EXAMINATION

2 BY MR. BENJAMIN:

3 Q. Mr. Gomez?

4 A. Yes.

5 Q. March of 2015, you told me that -- or you
6 told us that essentially you and Joe Gallegos bumped
7 into each other, for lack of a better term, at a
8 house; right?

9 A. Yes.

10 Q. I'm going to have to ask you, sir, to lean
11 forward because I can't hear you --

12 A. Yes.

13 Q. Okay. Thank you. And the owner called
14 the police?

15 A. Excuse me?

16 Q. And you said the owner called the police?

17 A. The owner, the neighbors.

18 Q. And then told you to leave?

19 A. Yes.

20 Q. He didn't want that around?

21 A. Excuse me?

22 Q. He didn't -- essentially something to the
23 effect of he didn't want you around, he didn't want
24 whatever was happening around there; right?

25 A. Yes.

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1 MR. BENJAMIN: Your Honor, I'd ask
2 permission to publish EG-1.

3 THE COURT: Any objection, Ms. Armijo?

4 MS. ARMIJO: Publish or -- no, Your Honor.

5 THE COURT: This one is in evidence.

6 MR. BENJAMIN: Yes, this is in evidence.

7 THE COURT: Certainly you're free to do
8 that. I'd forgotten that was in.

9 MR. BENJAMIN: I understand.

10 (Tape played).

11 BY MR. BENJAMIN:

12 Q. That's you?

13 A. Yes, sir.

14 Q. That's not a neighbor?

15 A. No, actually the neighbors called first.

16 I called the second time.

17 Q. Would it surprise you if the 911 calls for
18 that event don't include a neighbor's call?

19 A. Doesn't matter to me.

20 Q. Okay. Does you telling the police that
21 you were shot matter to you?

22 A. No, I just knew that I would get them
23 there faster.

24 Q. But you weren't shot.

25 A. No.

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1 Q. Does telling the police that Brandon
2 Chavez was running behind Joe Gallegos with a gun
3 matter to you?

4 A. Excuse me?

5 Q. You told the police -- you told Officer
6 Martinez that --

7 MS. ARMIJO: Objection, hearsay.

8 THE COURT: I think it would be an
9 out-of-court statement. Sounds like you are
10 offering it for the truth.

11 MR. BENJAMIN: Offering it for essentially
12 this line of impeachment, Your Honor, based upon --

13 THE COURT: Why don't you approach and
14 tell me what you're going to ask him.

15 (The following proceedings were held at
16 the bench.)

17 THE COURT: What's the full sentence? Ms.
18 Armijo objected, so what's the full question?

19 MR. BENJAMIN: Essentially the question
20 would be: Did you tell Officer Martinez that
21 Brandon Chavez was running behind Joe Gallegos with
22 a gun?

23 THE COURT: What are you offering that
24 for?

25 MR. BENJAMIN: The testimony prior to this

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1 Officer Martinez. It's to his truthfulness, Your
2 Honor.

3 THE COURT: Whose truthfulness?

4 MR. BENJAMIN: Jose Gomez's truthfulness.

5 THE COURT: Do you think the statement
6 that you're going to ask him about is truthful?

7 MR. BENJAMIN: No, I do not, Your Honor.

8 Officer Martinez said that he at this point in time
9 doesn't believe that that's the truth.

10 THE COURT: Well, it's not being offered
11 for the truth. So let me hear what he says.

12 MR. BENJAMIN: Thank you, Your Honor.

13 (The following proceedings were held in
14 open court.)

15 THE COURT: Mr. Benjamin.

16 BY MR. BENJAMIN:

17 Q. Does telling Officer Martinez that Brandon
18 Chavez is running behind Joe Gallegos with a gun
19 matter to you?

20 A. No.

21 Q. That's not an -- that's not something
22 that's an important allegation?

23 A. No, because I don't think that was on my
24 part.

25 Q. Can you lean forward?

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1 A. I don't believe that was on my part, so it
2 doesn't matter to me. I don't recall any of that
3 part right there.

4 Q. Where would they have gotten that? From
5 Brandon Chavez?

6 A. I don't know.

7 Q. Would they have gotten it from Joe
8 Gallegos?

9 A. I really don't know. I couldn't tell you.

10 Q. The only person who could have told them
11 that was you, the same person who called 911 and
12 reported a gun; right?

13 A. Yes.

14 Q. Okay. You ultimately changed and told the
15 police there was no gun; right?

16 A. Yes.

17 Q. But then you told them there was a knife.

18 A. Yeah.

19 Q. Okay. There was no knife.

20 A. Yes, there was. I was injured. I had
21 injuries to prove it.

22 Q. And you showed these injuries to the
23 officers?

24 A. Yes, sir.

25 Q. And they described them as a minor

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1 laceration.

2 A. There were two slices on my hand.

3 Q. Would you -- that's not how the officers
4 describe that; is that correct?

5 A. I don't know.

6 Q. You didn't seek medical treatment?

7 A. Actually, no. I refused it.

8 Q. Right. Because you weren't injured.

9 A. If I'm not severely injured, if my life
10 wasn't, like, if I'm not dying, bleeding to death,
11 or something like that, feel the need of medical
12 attention, I'm going to refuse it. So I did.

13 Q. You're not in any danger from a minor
14 laceration; right?

15 A. Exactly.

16 Q. Okay. Because there was no knife. You
17 crawled under a trailer and cut your hand on the
18 side of a trailer.

19 A. I was there. I know what happened.

20 Q. And you were there when you told us there
21 was a gun?

22 A. Yes.

23 Q. You were there when you told the officer
24 that Brandon Chavez had a gun?

25 A. That's a part that I don't recall, like I

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1 said.

2 Q. And you heard the part where you were
3 under the trailer and they told you to stay put?

4 A. Yes.

5 Q. And you cut your hand crawling under the
6 trailer?

7 A. No, that's what you're saying.

8 Q. You said that you were a member of the
9 SNM; correct?

10 A. Yes.

11 Q. And different gangs have -- or there's
12 rival gangs, is a good way to put it; right?

13 A. Yes.

14 Q. Burquenos is a rival gang of the SNM?

15 A. Yes.

16 Q. Were you a Burqueno?

17 A. At one point.

18 MR. BENJAMIN: Your Honor, I would move to
19 admit, without objection, EH-1.

20 THE COURT: There is no objection to this,
21 Ms. Armijo?

22 MS. ARMIJO: No, Your Honor.

23 THE COURT: All right. Defendant's
24 Exhibit -- anybody else have any objection? Not
25 seeing or hearing any, Defendant's Exhibit EH-1 will

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1 be admitted into evidence.

2 (Defendants' Exhibit EH-1 admitted.)

3 MR. BENJAMIN: Permission to publish, Your
4 Honor?

5 THE COURT: You may.

6 MR. BENJAMIN: I would ask for the
7 document camera, Your Honor.

8 BY MR. BENJAMIN:

9 Q. On your neck right there --

10 THE COURT: Do you want it on the Elmo or
11 up there?

12 MR. BENJAMIN: I'm fine with it up there,
13 Your Honor. That's clearer and easier. My fault.

14 BY MR. BENJAMIN:

15 Q. In the upper left-hand corner, the picture
16 has a B on it. What does that B stand for?

17 A. For Burque.

18 Q. And that's a rival gang of the SNM; right?

19 A. Let me go ahead and clarify that.

20 Q. Yes or no.

21 A. Burqueno is not a gang.

22 MR. BENJAMIN: Objection, nonresponsive.

23 A. It's from the same city.

24 THE COURT: Hold on. I'm going to strike
25 your answer. Answer Mr. Benjamin's questions. And

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1 if Ms. Armijo wants to bring something out, she can.

2 So the jury will disregard that answer.

3 Mr. Benjamin.

4 BY MR. BENJAMIN:

5 Q. That's a rival of the SNM, isn't it?

6 A. No, it's not.

7 Q. Okay. One of the rules of the gang is
8 that you can't be involved with other gangs, either
9 before or after; correct?

10 A. Incorrect.

11 Q. Okay. One of the rules of being in the
12 SNM is: You can't be a sex offender; right?

13 A. Not true, as well.

14 Q. Okay. One of the rules of the SNM is that
15 you can't snitch?

16 A. Correct.

17 Q. Okay. Would you be surprised that we've
18 been told --

19 MS. ARMIJO: Objection.

20 Q. Would you be surprised that the evidence
21 has shown that all three of those are supposed to be
22 rules of the SNM?

23 MS. ARMIJO: I'm still going to object.

24 THE COURT: Sustained.

25 MR. BENJAMIN: I apologize, Your Honor. I

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1 didn't hear the Court.

2 BY MR. BENJAMIN:

3 Q. Would you agree with me that the rules
4 seem to be waivable at different times and
5 different places?

6 A. Everybody breaks the rules. Everybody
7 makes their own rules. That's the truth about it.

8 Q. And that's what these are, is just what
9 people seem to say at that moment in time?

10 A. Hearsay.

11 Q. I'm sorry?

12 A. Hearsay.

13 Q. I'm sorry? I'm not understanding that
14 word.

15 A. I'm saying that's hearsay. A lot of those
16 things that you're saying are just hearsay. What
17 you believe is what's being told to you.

18 Q. Okay. So the rules are just waivable,
19 time and place?

20 A. It happens all the time.

21 Q. Okay. We heard that after the February
22 2016 incident, you met with the FBI; right?

23 A. Yes.

24 Q. And specifically with Special Agent Acee?

25 A. Yes.

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1 Q. Okay. He sat down with you and talked to
2 you for a while?

3 A. Yes.

4 Q. You were in custody at the time?

5 A. Yes.

6 Q. What were you in custody for?

7 A. I don't know. I believe it was a warrant.

8 Q. Big warrant? Little warrant?

9 MS. ARMIJO: Your Honor, may we approach?

10 THE COURT: You may.

11 (The following proceedings were held at
12 the bench.)

13 MS. ARMIJO: He did at some point have
14 charges that were dismissed. But I don't think --
15 since they were just arrests, it's not 609. So we
16 would ask that any of his arrests that he does not
17 have any convictions for not be brought out.

18 Clearly he's been impeached with a lot of his facts.
19 That he had a federal case I brought out because we
20 dismissed it. But I don't think -- and this, of
21 course, he did have some for failing to register,
22 but I don't think the fact that he had charges that
23 were dismissed should be brought out if they were
24 just arrests.

25 MR. BENJAMIN: One of the incidents and a

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1 subject of, I think, several pages in a transcript
2 is him negotiating with Special Agent Acee what he's
3 going to do to get out. He makes it quite clear to
4 Agent Acee that he does not want to participate and
5 ultimately comes around because he can get out.

6 THE COURT: Can you get all that out
7 without telling what the charges are?

8 MR. BENJAMIN: What I would request simply
9 because of his answer there, I could preface, "Don't
10 tell me what it was for." My word was "a big
11 warrant or a little warrant." But yes, I can do
12 that, Your Honor.

13 THE COURT: Okay.

14 (The following proceedings were held in
15 open court.)

16 THE COURT: All right, Mr. Benjamin.

17 MR. BENJAMIN: May I approach counsel?

18 THE COURT: You may.

19 BY MR. BENJAMIN:

20 Q. When you met with Special Agent Acee, you
21 were being held on a parole violation; correct?

22 A. No, not a parole violation.

23 Q. Probation violation?

24 A. Not probation either. It was an open
25 case, is what it was for.

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1 Q. Okay. And it was --

2 MR. BENJAMIN: Your Honor, clarification,
3 please. I plan to ask, I guess, whether or not it
4 was a felony or not. Is that within the Court's
5 ruling?

6 THE COURT: Yes, you can ask him.

7 BY MR. BENJAMIN:

8 Q. It was for a felony; correct?

9 A. Yes.

10 Q. And you recall sitting down with Special
11 Agent Acee discussing that?

12 A. Yes.

13 Q. Okay. And you were adamant that you
14 wanted out of custody; right?

15 A. At that time, no.

16 Q. At that time, no? So you don't remember
17 discussing with Special Agent Acee whether or not
18 you were going to cooperate, and that cooperation
19 being hinged on whether or not you were going to get
20 out?

21 A. Yes.

22 Q. Okay. And you repeated, "I want to get
23 out"; right? You were not interested in cooperating
24 at the beginning.

25 A. Yes.

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1 Q. That's correct?

2 A. Yes.

3 Q. Okay. And at that time, initially,
4 Special Agent Acee told you that you were going to
5 have to deal with the state issue. And you told him
6 you weren't interested in cooperating then; correct?

7 A. Yep.

8 Q. That changed. That changed when you
9 handwrote descriptions of drug conspiracies; is that
10 fair?

11 A. Yes.

12 Q. And you admitted to conduct that allowed
13 you to be charged with a federal drug conspiracy;
14 correct?

15 A. Yes.

16 Q. And the charging of you with that federal
17 drug conspiracy was the way that you were then taken
18 out of state custody and put into federal custody;
19 correct?

20 A. Yes.

21 Q. And ultimately bonded out?

22 A. Yes.

23 Q. Released. That release came with
24 conditions; correct?

25 A. Yes.

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1 Q. Those conditions included not possessing a
2 firearm or a destructive device?

3 A. Yes.

4 Q. Refraining from the use of alcohol;
5 correct?

6 A. Yes.

7 Q. Refraining from the use of narcotics?

8 A. Yep.

9 Q. Not committing any new offenses?

10 A. Yes.

11 Q. And appearing essentially at any and all
12 proceedings; correct?

13 A. Yes.

14 Q. Okay. As a sex offender, you're required
15 to register every 30 days; right?

16 A. Yes.

17 Q. That's what we call a positive
18 requirement; right? It's something you have to
19 physically and actually do; is that correct?

20 A. Yes.

21 Q. If you don't do that, that's where the
22 offense comes in; correct?

23 A. Yes.

24 Q. And you knew that you had to have this
25 requirement; yes?

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1 A. Yes.

2 Q. And you knew that if you failed to do
3 that, that would violate that requirement?

4 A. What does any of this have to do with what
5 I'm on the stand for right now?

6 Q. Bias.

7 A. Excuse me?

8 Q. Bias. Whether or not you have sought and
9 received help; right?

10 A. Yes.

11 Q. And you did.

12 A. Yes.

13 Q. You sought and received Special Agent
14 Acee's help. Because they wanted to take you out of
15 New Mexico; right?

16 A. Yes.

17 Q. And "The defendant declined to travel out
18 of state for his protection and requested to remain
19 within Valencia County"; correct?

20 A. Yes.

21 Q. That's a big step; right?

22 A. Yes.

23 Q. That's kind of like when we hear about
24 individuals that are declining to go into protective
25 custody in jail. They're saying, "No, I'm fine.

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1 I'll stay where I'm at"; right?

2 A. Yes.

3 Q. "I understand the risk and I accept it."

4 Now, in 2015, that's what I believe
5 Ms. Armijo is referring to as the Charger incident;
6 right?

7 A. Yes.

8 Q. After that time is when you said Joe
9 Gallegos told you, "Fool, you're done," and put a
10 green light on you; right?

11 A. Yes.

12 Q. Okay. Do you remember talking about why
13 Joe Gallegos was upset with you in 2015?

14 A. Talking about with whom?

15 Q. Special Agent Acee. Thank you for the
16 clarification.

17 A. Yes.

18 Q. He was upset with you because he thought
19 you'd stolen his jet skis?

20 A. Yes.

21 Q. Okay. He was upset with you because he
22 thought you had kicked his dog?

23 A. Yes.

24 Q. He takes his -- he's very attached to his
25 dogs; right?

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1 A. Obviously.

2 Q. Well, I mean, you know that, I believe;
3 right?

4 A. I just stated it.

5 Q. Okay. Fair to describe -- you grew up and
6 have lived around the corner -- your mother's house
7 is around the corner from Joe Gallegos' house;
8 correct?

9 A. Yes.

10 Q. Fair to say almost a football's throw
11 away?

12 A. Yes.

13 Q. So you've known Joe for a long time?

14 A. Since I was six or seven years old.

15 Q. And Los Chavez is a very, very small part
16 of Los Lunas; right?

17 A. Yes.

18 Q. Okay. Do you remember telling Detective
19 King -- actually, let me preface it this way. Do
20 you know who Detective King is?

21 A. I believe so.

22 Q. And do you remember telling Detective King
23 on February 27, 2016, that "Joe and I have been
24 beefing it for a long time"?

25 A. No. For a while. Not a long time.

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1 Q. Okay. A while. Thank you for the
2 correction. And that meant that you and he were
3 having -- "beefing it" is a term for personal
4 issues; right?

5 A. Yeah.

6 Q. It was strictly between you and Joe?

7 A. It was supposed to be.

8 Q. Well, this was what you told the detective
9 on February 27, 2016; right?

10 A. Yes.

11 Q. Okay. And that stemmed from kicking his
12 dog? Yes? I mean, that's what you told Special
13 Agent Acee; right?

14 A. I don't recall that.

15 Q. That stemmed from stealing his jet ski?

16 A. I recall that part. There were things
17 that were left out, but yes, that's one of the
18 things, yes.

19 Q. That also stems from Mary Crampton, Joe's,
20 I guess, former girlfriend, taking a girlfriend of
21 yours to the airport to get her out of town; right?

22 A. No, not true.

23 Q. Okay. When Joe was letting you stay at
24 his house -- and this was before March of 2015;
25 right?

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1 A. I believe so.

2 Q. Okay. He essentially asked you to put
3 \$50 --

4 MS. ARMIJO: Objection. Sorry, withdrawn.

5 Q. The agreement was essentially \$50 a month
6 on his books; right? Or that effect?

7 A. \$50 every two weeks, every month. I don't
8 remember exactly. But yes.

9 Q. Okay. And that was in exchange for
10 letting you and your girlfriend at the time stay at
11 the house?

12 A. Yes.

13 Q. Pretty cheap rent, isn't it?

14 A. Yeah.

15 Q. And that's one of the reasons why you and
16 Joe were beefing it, as you put it; is that fair?

17 A. Yeah.

18 Q. Who is Hope?

19 A. Excuse me?

20 Q. Who is Hope?

21 A. I don't know.

22 Q. You had a former girlfriend named Hope;
23 correct?

24 A. No, I actually don't.

25 Q. Would it surprise you if your former

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1 girlfriend named Hope was telling people --

2 MS. ARMIJO: Objection, hearsay.

3 THE COURT: Well, you better approach and
4 tell me what it is she's going to say.

5 MR. BENJAMIN: Yes, Your Honor.

6 (The following proceedings were held at
7 the bench.)

8 THE COURT: What is she out there saying?

9 MR. BENJAMIN: That he was sleeping with
10 Shauna Gutierrez, and this is one of the -- it's an
11 issue, an understanding, that Shauna has.

12 THE COURT: And why do we care?

13 MR. BENJAMIN: Shauna Gutierrez is one of
14 the ones that directed the attack on Mr. Gomez.

15 THE COURT: Why do we care whether he's
16 surprised or not by this statement?

17 MR. BENJAMIN: I guess I was surprised by
18 his lack of agreeing with it, Your Honor.

19 THE COURT: I guess I'm just not seeing
20 why his surprise would be important, so I'll
21 sustain.

22 MR. BENJAMIN: Okay.

23 (The following proceedings were held in
24 open court.)

25 THE COURT: Mr. Benjamin.

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1 BY MR. BENJAMIN:

2 Q. Who is Joe Gallegos' son?

3 A. Excuse me?

4 Q. Who is Joe Gallegos' son?

5 A. I'm not really -- I don't recall any of
6 his -- I, like, never knew his kids.

7 Q. His son and your ex-girlfriend are dating
8 and have two kids, don't they?

9 A. From what I understand.

10 Q. Okay. And it's not a surprise. I mean,
11 as we discussed, it's a small town; right?

12 A. Yeah.

13 Q. Do you have any kids?

14 A. Yes, sir.

15 Q. Okay. And two of those children are being
16 taken care of by Joe's son; right?

17 A. I have no kids with my former girlfriend,
18 the one that's with his son.

19 Q. They're not taking care of two of your
20 kids?

21 A. Nope.

22 Q. Okay. Who is Shauna Gutierrez?

23 A. Joe Lawrence's ex-girlfriend.

24 Q. Okay. When did they begin dating; do you
25 know?

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1 A. I don't.

2 Q. Okay. Well, they were -- do you know
3 during what time they were dating?

4 A. During the time that all the conflict was
5 going on, during then. That's all I do know about
6 the relationship, that she was around.

7 Q. They weren't dating in March of 2015;
8 right?

9 A. No, that's actually right before their
10 relationship, now that I remember.

11 Q. Well, their relationship started in
12 September of 2015, didn't it?

13 A. I don't know whenever it started, but all
14 I can tell you is the times whenever she came around
15 in the picture when I seen. But I don't know.

16 Q. Okay. Fair. And do you know her
17 personally?

18 A. To a point.

19 Q. Okay. Were you aware that there was a
20 rumor that you were dating her?

21 MS. ARMIJO: Objection, hearsay.

22 THE COURT: Well, let's just -- yes or no
23 on this.

24 BY MR. BENJAMIN:

25 Q. As the judge said, yes or no.

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1 A. Yes.

2 Q. Okay. And that was something that was
3 going around. As we described, a small town; right?

4 A. Yes.

5 Q. And that rumor -- are you aware if that
6 rumor made it back to Shauna?

7 A. No.

8 Q. You're aware of Brandy Rodriguez'
9 relationship to Joe Gallegos; correct?

10 A. Yes.

11 Q. Fair to describe that she was raised by
12 the Gallegos family?

13 A. Pretty much.

14 Q. Okay. I mean, she essentially was there
15 from eight years old on; right?

16 A. Yes.

17 Q. And am I correct in that you and her are
18 about the same age?

19 A. Yes.

20 Q. Okay. And so when she refers to Joe as
21 her jefe, that has more than simply what you stated
22 as a relationship in a gang; correct?

23 MS. ARMIJO: Objection.

24 A. They're exactly --

25 THE COURT: What's the objection?

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1 MS. ARMIJO: Objection to foundation.

2 THE COURT: Well, it's his understanding.

3 Overruled.

4 BY MR. BENJAMIN:

5 Q. Go ahead, sir.

6 A. Actually, her -- the way I see it, the way
7 she's phrasing it, she's referring to the same
8 thing. I mean, she was raised as a gang member
9 around him, looked up to him as an idol, and also as
10 a person that she looks upon as family, but not as a
11 father. So when a jefe comes in or something like
12 that, it's something that you respect and look up
13 to.

14 Q. Are you aware of how Joe refers to her?

15 A. No.

16 Q. All right.

17 A. Home girl.

18 Q. Are you aware of how she refers to Joe
19 outside of what we've just talked about as jefe?

20 A. Yes.

21 Q. Okay. And what does she call him besides
22 jefe?

23 A. What does she call --

24 Q. My question, I apologize, was: Are you
25 aware of how she refers to her relationship of Joe

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1 outside of "jefe"?

2 A. Yes.

3 Q. How?

4 A. The big homie.

5 Q. She's never referred to him in a familial
6 way?

7 A. As what?

8 Q. A familial way, a family way?

9 A. Not that I know of.

10 Q. Okay. So you would be surprised if she
11 did?

12 A. I mean, honestly, no, I don't know their
13 relationship. I just know, you know, they have
14 several years of history together. That's it. I
15 can't tell you the way they feel for each other.

16 Q. This is somebody who you've interacted
17 with for almost 30 years; right?

18 A. I can only tell you what I know.

19 Q. Right?

20 A. Right.

21 Q. And you've interacted with Brandy?

22 A. Yes.

23 Q. Essentially for almost 30 years?

24 A. Yes.

25 Q. This is an individual who -- the mother

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1 lives just a couple streets the other direction.

2 A. Whose mother?

3 Q. Joe Gallegos' mother, Tina Gallegos.

4 A. Oh, yes.

5 Q. And so this is not anybody that -- there's
6 not a large distance or anything between any of
7 these houses; right?

8 A. No.

9 Q. You walk to them?

10 A. Yeah.

11 Q. Right. Everybody is fairly close?

12 A. Yep.

13 Q. Everybody interacts all the time; right?

14 A. Actually, no; not certain people.

15 Q. Well, you interacted with Joe enough to
16 live in his house in 2015; right?

17 A. Correct.

18 Q. Does Shauna Gutierrez have a son?

19 A. Yes.

20 Q. And all I'm looking for, I guess, is his
21 first name. What's his first name, sir?

22 A. Sebastian.

23 Q. On February 26 (sic) you said that Brandy
24 Rodriguez, Santos Gonzalez, and Paul Rivera came
25 over to Charlene Parker-Johnson's house; correct?

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1 A. Yes.

2 Q. How did they find you that day?

3 MS. ARMIJO: Objection, foundation.

4 MR. BENJAMIN: To the extent he knows,
5 Your Honor. Let me rephrase it, Your Honor.

6 BY MR. BENJAMIN:

7 Q. You were staying at Charlene
8 Parker-Johnson's house; correct?

9 A. No. I had stayed there for -- before the
10 incident, those days prior to that, like two days
11 prior to that.

12 Q. Do you remember saying that you were
13 staying there in exchange for doing work at the
14 house?

15 A. No.

16 Q. Were you doing any work? Withdrawn.

17 But you were staying there, you said, for
18 a few days I think; right?

19 A. I think a day and a half, yes.

20 Q. Okay. And was Charlene Parker-Johnson
21 happy with that?

22 A. Yeah.

23 Q. She didn't ask you to leave?

24 A. Never.

25 Q. Do you know how Brandy, Paul, and Santos

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1 found you that day?

2 A. I have, you know, a thought in my mind but
3 I can't confirm it.

4 Q. She had told them; right?

5 MS. ARMIJO: Objection. Objection.

6 THE COURT: What's the objection?

7 MS. ARMIJO: The objection is hearsay and
8 foundation.

9 THE COURT: Well, I need to get the
10 foundation out. Why don't you just answer this
11 question yes or no?

12 THE WITNESS: Can you repeat the question?

13 BY MR. BENJAMIN:

14 Q. Yes. Do you know how they found you?

15 A. No, I don't.

16 Q. Did you tell anybody that you were staying
17 there?

18 A. There's a few people, yes.

19 Q. Did you tell Brandy Rodriguez that you
20 were staying there?

21 A. No.

22 Q. Did you tell Santos Gonzalez you were
23 staying there?

24 A. No.

25 Q. Did you tell Paul Rivera that you were

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1 staying there?

2 A. No.

3 Q. Did you tell Shauna Gutierrez that you
4 were staying there?

5 A. No.

6 Q. Okay. So none of those people knew that
7 you were staying there; correct?

8 A. No.

9 Q. So do you believe Charlene Parker-Johnson
10 told them?

11 A. I don't believe so.

12 Q. I'm sorry?

13 A. I don't believe so.

14 Q. Well, the only way they could have
15 found --

16 A. I don't know, for sure. I don't know who
17 said what. I don't know who said anything, but they
18 did find me, yes.

19 Q. They found you when -- after Charlene left
20 the house that morning to go to the methadone clinic
21 is what you understood; right?

22 A. Yes.

23 Q. And if we add things up, the only person
24 that could have told them was Charlene; right?

25 A. Nobody will ever know the truth.

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1 Q. Well, all we're concerned about is that
2 they found you; right?

3 A. Exactly.

4 Q. Okay. And seeing as you'd only been there
5 two days --

6 A. Yeah.

7 Q. -- we're led to one conclusion; right?

8 A. What is that?

9 Q. You were not the welcome house guest that
10 you believe you were.

11 A. That could be true, too.

12 Q. So it's not beyond the pale that Charlene
13 finds one of those three and tells them she wants
14 you out of her house.

15 A. I don't know about -- for the whole time
16 that I was there, she was in my vision the whole
17 time and in my company. So to my knowledge, nothing
18 of that sort happened.

19 Q. Well, but that's not something that we
20 should draw from somebody being attacked by three
21 people, if it wasn't known that you were there;
22 right?

23 A. I don't know what you're getting at.

24 Q. I'm getting at the idea that if you were a
25 welcome houseguest, why would Charlene have people

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1 come over to remove you from the house?

2 MS. ARMIJO: Objection, facts not in
3 evidence?

4 A. So that's what your point is, to see if I
5 was a welcome houseguest or not?

6 Q. One second, sir.

7 THE COURT: Given his answer, I'll allow
8 the question to stand. Overruled.

9 Q. Well, the Government offered a theory as
10 to why you were assaulted. I'm asking: The other
11 thing that we heard on direct was that you were
12 asked where the guns and the drugs and the money
13 were; right?

14 A. Yes.

15 Q. And Santos was interested in that; right?

16 A. Yes.

17 Q. A lot, probably. He stopped; right?

18 A. Yeah. And any drug user will stop at the
19 first chance to get their hands on drugs and money.

20 Q. Okay. Santos Gonzalez is the one that you
21 said struck you in the head; right?

22 A. No, I stated they all did.

23 Q. You spoke to Special Agent Acee on May 9,
24 2016; correct?

25 A. I don't recall the date, but --

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1 Q. Special Agent Acee asked you, "When you
2 got your head -- the damage that happened to your
3 head, your injuries -- who did that?"

4 Do you remember replying, "Santos
5 Gonzalez"?

6 A. No, I stated everybody.

7 Q. Do you remember replying on that day,
8 "Santos Gonzalez"?

9 A. I just told you what I said that day when
10 he asked me.

11 Q. Do you remember being asked if he is S?

12 A. Yes.

13 Q. What does "Is he S" mean to you?

14 A. A carnal.

15 Q. Okay. SNM?

16 A. Yes.

17 Q. Okay. Do you remember what your answer
18 was?

19 A. I said he's associated. I don't know 100
20 percent if he is or not.

21 Q. Do you remember just saying flat "No"?

22 A. I don't.

23 Q. Would it surprise you that your answer was
24 a flat "No"?

25 A. Yeah.

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1 Q. Do you remember providing a flat "No"?

2 A. No.

3 MR. BENJAMIN: May I approach, Your Honor?

4 THE COURT: You may.

5 BY MR. BENJAMIN:

6 Q. Do me a favor. If you could read this
7 line of questioning, and look up when you've had a
8 chance. Do you remember providing a flat "No"?

9 A. If it's written down, then maybe I did
10 then. But I don't recall it.

11 Q. Okay. You told Santos Gonzalez that the
12 money and the dope was in the backyard; right?

13 A. Yes.

14 Q. Did that seem to satisfy him?

15 A. It distracted him. It didn't seem to
16 satisfy him.

17 THE COURT: Mr. Benjamin, would this be a
18 good place for us to take our evening break?

19 MR. BENJAMIN: Yes, Your Honor.

20 THE COURT: All right. I appreciate your
21 hard work. You've been a good bunch, and I know
22 everybody is working hard. I appreciate it very
23 much. Y'all have a good evening. See you at 8:30
24 in the morning.

25 All rise. Be safe on your travels if

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1 you're traveling tonight.

2 (The jury left the courtroom.)

3 THE COURT: All right. So I'll be looking
4 for two charts tomorrow, scripts in the morning.

5 Ms. Armijo, Ms. Bevel needs to talk to you
6 a little bit about the Baca trial, so if you'll stay
7 around.

8 (The Court was in recess.)

9

10 May 3, 2018

11 THE COURT: Good morning, everyone. I
12 appreciate everybody being here. It looks like
13 we've got every defendant in the room and we've got
14 an attorney for each defendant. Is there anything
15 to discuss before we bring in the jury?

16 Mr. Castellano?

17 MR. CASTELLANO: No, sir.

18 THE COURT: How about from the defendants?

19 All right. I've been working on the Baca
20 questionnaire this morning. The lawyers aren't able
21 to quite agree on that. Y'all are making me feel
22 very sweet to y'all. So I haven't had a chance to
23 look at your two proposals. Anything you want to
24 tell me just in a general way about those,

25 Ms. Armijo?

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1 MS. ARMIJO: Yes, I think
2 Ms. Harbour-Valdez and I kind of agreed -- and if
3 you wanted to save the Court a little bit -- I think
4 we're only off right now from going into that Monday
5 by 2.75 hours, or something small like that.

6 THE COURT: When you say "off," what do
7 you mean by that?

8 MS. ARMIJO: I think we've caught up a
9 great deal in the last day or so. And I think that
10 within today and tomorrow we may even be caught up
11 more.

12 THE COURT: You would feel you're totally
13 caught up?

14 MS. ARMIJO: We would. And so rather than
15 the Court spending time on looking at the
16 differences between what the defense proposed and
17 what we proposed, I would suggest give it a day or
18 two, because I don't think we're in disagreement
19 about a lot. And I think we can get caught up, and
20 we can just go off the original plan, because the
21 hours will move, and we'll be on track.

22 So I just don't want to waste the Court's
23 time. And that was what Ms. Harbour-Valdez and I
24 both thought. We still did make efforts to cut .5
25 here, .5 there. And that's where you see it.

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1 THE COURT: Sure.

2 MS. ARMIJO: But I really do believe that
3 we'll be able to be on track. And if we're not,
4 then maybe the parties can meet again, see where
5 we're at in a day or two and give something to the
6 Court. But I just don't want to waste the Court's
7 time when we're so close.

8 THE COURT: Pretty close to that,
9 Mr. Cooper?

10 MR. COOPER: We're very close, Your Honor.
11 Like, I think, it is 2.75 hours away from finishing
12 up on the 18th.

13 THE COURT: Why don't I let you talk to me
14 a little bit on the next break. I'll try to get
15 this questionnaire in shape and listen to
16 Mr. Cooper's comments.

17 MR. COOPER: Thank you, Judge.

18 THE COURT: All right. All rise.

19 .(The jury entered the courtroom.)

20 THE COURT: Well, good morning, ladies and
21 gentlemen. I appreciate everybody being back and
22 ready to go on time. I just want to start this
23 morning with -- in connection with Law Day, which is
24 a big deal in our profession and things. One of the
25 things that we do this week is -- in New Mexico,

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1 it's Juror Appreciation Week, recognition. The
2 Supreme Court of New Mexico passes a resolution and
3 it's published. You're in here and you probably
4 don't get to see the public proclamation. I'm not
5 going to read it all to you, but I do want to read a
6 few words of it that the Supreme Court of New Mexico
7 issued.

8 It says, "Whereas, the right to a trial by
9 jury is one of the core values of American
10 citizenship.

11 "Whereas, the obligation and privilege to
12 serve as a juror are as fundamental to our democracy
13 as the right to vote.

14 "Whereas, our courts depend upon citizens
15 to serve as jurors.

16 "Whereas, service by citizens as jurors is
17 indispensable to the judicial system.

18 "Whereas, all citizens are encouraged to
19 respond when summoned for jury service.

20 "Whereas, one of the most significant
21 actions the court system can take is to show
22 appreciation for the jury system and for the
23 citizens who give their time and talent to serve on
24 juries.

25 "Be it resolved that the New Mexico Courts

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1 are committed to applauding the efforts of jurors
2 who fulfill their civic duty."

3 We really mean that. So thank you for all
4 you're doing for us. You're just a wonderful group
5 of citizens. And we're just so thankful for you. I
6 think the lawyers and the parties just are amazed at
7 how you've gone about your task. And we're just
8 very appreciative.

9 All right. Mr. Gomez, I'll remind you
10 that you're still under oath.

11 Mr. Benjamin, if you wish to continue your
12 cross-examination, you may do so at this time.

13 MR. BENJAMIN: Thank you, Your Honor.

14 THE COURT: Mr. Benjamin.

15 JOSE GOMEZ,

16 after having been previously duly sworn under
17 oath, was questioned, and continued testifying
18 as follows:

19 CONTINUED CROSS-EXAMINATION

20 BY MR. BENJAMIN:

21 Q. Good morning.

22 A. Good morning.

23 Q. Do you remember giving a statement on
24 March 9 of 2016 to Special Agent Acee of the FBI?

25 A. Yes.

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1 Q. Do you remember in that statement stating,
2 when talking about your criminal history, "But I
3 want it to go away. I want my fucking record to
4 fucking just stand, you know, where it's bounced,
5 zeroed out, I can walk away."

6 A. Yes.

7 Q. Okay. And can I have page 4 of
8 Government's 839?

9 And that criminal record started with a
10 criminal sexual penetration that was committed in
11 2001; correct?

12 A. Yes.

13 Q. I'm sorry?

14 A. Yes.

15 Q. And you pled guilty to that criminal
16 sexual penetration in 2004, and essentially received
17 nine years' probation, and then another nine years'
18 probation following that; correct?

19 A. Yes.

20 Q. And that was on April 5th of 2004?

21 A. Yes.

22 Q. And then on April -- excuse me, October
23 29, 2004, you committed an attempted aggravated
24 battery on a household member; correct?

25 A. Yes.

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1 Q. That was just over six months after you'd
2 been placed on 18 years' probation for the criminal
3 sexual penetration; correct?

4 A. Yes.

5 Q. And they filed a motion to revoke your
6 probation at that time; right?

7 A. Yes.

8 Q. And a motion to revoke your probation is
9 where either the Government, if it's a federal case,
10 or the state prosecutor, the district attorney, if
11 it's a state case, comes into court and says, "Jose
12 Gomez promised to live by these conditions," and
13 what was the first condition you promised to live
14 by?

15 A. To obey all my probation.

16 Q. Well, correct, that was the general one.
17 But do you know what condition number one was?

18 A. No.

19 Q. Not commit any other state or federal
20 offenses; right?

21 A. Yes.

22 Q. Okay. And that was called a motion to
23 revoke, and you were allowed to remain on probation;
24 right?

25 A. Yes.

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1 Q. And then in 2006, they revoked that
2 probation for the criminal sexual penetration and
3 the aggravated attempted battery; correct?

4 A. Yes.

5 Q. Now, on March 9, 2016, one of the things
6 that happened is: You were talking to Special Agent
7 Acee about the assault on you that had happened
8 about 10 days before that; right?

9 A. Yes.

10 Q. And do you remember telling Special Agent
11 Acee that Santos is the one that was pretty much
12 orchestrating the whole thing?

13 A. Yes.

14 Q. Okay. And this was after you had the
15 ability to -- not totally, but begin to recover from
16 and think about what had happened; right?

17 A. I was recovering, but I was aware of
18 everything that happened when I was conscious.

19 Q. And part of the reason you said that was
20 that you had said that Santos, when he was striking
21 you, yelled: "Don't call me a child molester";
22 right?

23 A. Yes.

24 Q. I'm sorry?

25 A. Yes.

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1 Q. And do you know whether Santos Gonzalez
2 has a sexual registration offense?

3 A. No.

4 Q. He seemed to believe he did; right?

5 A. Yeah. That was just rumors that was going
6 around to him. But I was unaware of it, though.

7 Q. But that's what he told you.

8 A. Yeah, I believe so.

9 Q. And whether or not that's correct, that's
10 what Santos Gonzalez yelled at you, which was:
11 "Don't call me a child molester"; yes?

12 A. Yes.

13 Q. Thank you. However, a little while later,
14 on March 9, 2016, do you remember saying that Shauna
15 was orchestrating the whole thing?

16 MS. ARMIJO: Your Honor, I'm going to
17 object to hearsay if he's trying to impeach him.
18 But at this point it hasn't been shown.

19 MR. BENJAMIN: I'm simply asking if he
20 made --

21 THE COURT: Well, I think if he's making
22 an out-of-court statement there for the truth, then
23 I think it would be hearsay. So sustained.

24 BY MR. BENJAMIN:

25 Q. Who is Shauna Gutierrez?

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1 A. Gallegos' former girlfriend.

2 Q. I'm sorry?

3 A. Gallegos' former girlfriend.

4 Q. You're going to have to be more specific.

5 There's two of them in the room.

6 A. Joe Gallegos.

7 Q. Joe Gallegos' ex-girlfriend?

8 A. Yes.

9 Q. And after that, you are -- well, I take
10 that back. What was purpose of Special Agent Acee
11 meeting with you on March 9, 2016?

12 A. All the incidents that happened and just
13 we discussed it and that was pretty much it at that
14 time. That was the basis of it.

15 Q. Well, he was telling you that there were a
16 lot of --

17 MS. ARMIJO: Objection, hearsay.

18 MR. BENJAMIN: Your Honor, to the extent
19 that --

20 THE COURT: Well, I think what Mr. Acee is
21 saying to him, he's the Government's agent, I think
22 is proper. Overruled.

23 BY MR. BENJAMIN:

24 Q. He was telling you a lot of good dudes
25 were cooperating; correct?

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1 A. Yes.

2 Q. "Like guys that I would say even in my own
3 eyes, they're actually pretty good dudes."

4 A. Yeah.

5 Q. Fair to describe as he's trying to bring
6 you over to their side?

7 A. No.

8 Q. No?

9 A. No.

10 Q. He's not trying to get you to cooperate?

11 A. That's not the way I took it.

12 Q. He told you he's not going to clean up
13 Valencia County; he's trying to continue filing the
14 RICO charges to send people to the Bureau of
15 Prisons; correct?

16 A. Yes.

17 Q. And then he asked you if you understood,
18 and you said, "As far as the S, I do"; right?

19 A. Yes.

20 Q. And he said, "We want to take care of the
21 S," and they're going to take -- and he's going to
22 take care of the people that are willing to help him
23 out; right?

24 A. No.

25 Q. He didn't tell you that, and then tell you

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1 that the alternative to that was a very long prison
2 sentence?

3 A. Pretty much, but I don't know what you're
4 referring to as far as taking care of.

5 Q. When he told you he was going to keep
6 RICOing the S --

7 A. Yes.

8 Q. -- you understood that he meant filing
9 federal charges against them; right?

10 A. Yes.

11 Q. And thank you for clarifying that.

12 Do you remember asking Special Agent Acee
13 on March 9, 2016, whether it was -- in response to
14 that last question whether it was his judgment as to
15 how the case would proceed, so it's your judgment?

16 A. I don't understand that part.

17 Q. Okay. Fair enough. Special Agent Acee
18 told you, "I've got to call my bosses." And he
19 says, "I have to tell the prosecutors" -- the
20 individuals sitting at this table; correct?

21 A. I wasn't aware at that time who.

22 Q. But you are now.

23 A. (Shrugs.)

24 Q. You've met and discussed this case with
25 Ms. Armijo?

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1 A. Yes.

2 Q. Okay. You're aware that she's the
3 prosecutor in this case?

4 A. Yes.

5 Q. And Agent Acee told you he has to call
6 them and tell them what we're doing with Jose.

7 A. Yes.

8 Q. Is he one of our victims? Is he
9 cooperating with us? Do we call him a victim or do
10 we call him a suspect; right?

11 A. Yes.

12 Q. And he says, "How are we leaving today?"

13 And do you remember saying, "Is it your
14 judgment?"

15 A. Whose judgment? His or mine?

16 Q. Do you remember asking Agent Acee if it
17 was his judgment of how to proceed?

18 A. No, I don't recall that.

19 MR. BENJAMIN: May I approach, Your Honor?

20 THE COURT: You may.

21 BY MR. BENJAMIN:

22 Q. We're discussing this portion right here.
23 Read the whole thing, and just look up when you're
24 done.

25 On March 9, 2016, do you remember asking

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1 Special Agent Acee if it's his judgment?

2 A. Yes.

3 Q. And him telling you he'd rather you be a
4 victim?

5 A. Yes.

6 Q. Do you remember him telling you that,
7 "We've done this a bunch of times. Guys that are
8 still facing charges, what we do is we hit you with
9 a fed case instead; that way the D.A. is happy," the
10 State; right?

11 A. Yes.

12 Q. And at the time of this interview, you
13 were pending state charges?

14 A. Yes.

15 Q. "It works out good for you because we have
16 some control over your future. We charge you with a
17 conspiracy to traffic drugs. On the high end, it's
18 20 years, and on the low end, it can be probation.
19 Some of your carnals are free and clear, living
20 outside of New Mexico right now. They never saw a
21 day in jail."

22 Who are your carnals?

23 A. The S.

24 Q. Okay. That, in fact, is what you ended up
25 doing with Special Agent Acee, is it not?

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1 A. Yes.

2 Q. And do you remember him telling you that
3 what he wanted you to do is provide him with some
4 facts regarding drug transactions you'd been
5 involved in?

6 A. Yes.

7 Q. So that he could charge you with those;
8 right?

9 A. Yes.

10 Q. And you told him that in 2014 --

11 MS. ARMIJO: Objection, hearsay.

12 THE COURT: If you're offering it for the
13 truth, then it would be. Sustained.

14 MR. BENJAMIN: Your Honor, I'm offering it
15 for the fact that this was the basis of a pending
16 case that was dismissed and that's a motive for
17 bias.

18 THE COURT: Well, that may be the purpose
19 of it, but if it's being offered for the truth, then
20 sustained.

21 BY MR. BENJAMIN:

22 Q. Did you tell him about an event that
23 occurred between you and Mr. -- without getting into
24 the facts -- between you and Willie, Demon, Romero
25 in 2014?

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1 A. I believe so.

2 Q. That's a yes?

3 A. Yes.

4 Q. And that was a drug transaction for
5 heroin; correct?

6 A. Yes.

7 Q. Did you tell him that --

8 MS. ARMIJO: Objection, hearsay.

9 THE COURT: Sounds like these are going to
10 be for the truth, so sustained.

11 BY MR. BENJAMIN:

12 Q. You admitted -- as the -- let me ask you
13 this. You asked him how he was going to prove this;
14 right?

15 A. At this point I don't remember everything
16 that was discussed at that time.

17 Q. Okay. But you had wrote down facts to
18 support these three different drug conspiracies;
19 correct?

20 A. Yes.

21 Q. Okay. And you were then charged formally
22 on March 14, 2016, with a federal drug offense?

23 A. Yes.

24 Q. That carried a maximum sentence of 20
25 years, yes?

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1 A. Yes.

2 Q. And had no minimum sentence?

3 A. Yes.

4 Q. The Government at that time -- I
5 apologize. A couple days later, about nine days
6 later, on March 23, 2016 -- agreed to what are
7 called conditions of release, and you were let out
8 of custody; correct?

9 A. Yes.

10 Q. That was revoked for your failing to
11 maintain contact with Special Agent Acee on May 16,
12 2016; correct?

13 A. Yes.

14 Q. I'm sorry?

15 A. Yes.

16 Q. And I apologize, sir, but you keep moving
17 a little bit farther back from the mic.

18 A. My voice is messed up. I'm sick right
19 now.

20 Q. Can you try to move the microphone a
21 little bit closer to you, then?

22 On May 16 of 2016 or about, you were
23 arrested; correct?

24 A. Yes.

25 Q. And the Government then dismissed and

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1 refiled those drug charges; right?

2 A. Yes.

3 Q. And then you were in custody until July 7
4 of 2016. And you were released on those again?

5 A. Yes.

6 Q. Those drug charges were essentially the
7 same ones that carried the maximum sentence of 20
8 years; right?

9 A. Yes.

10 Q. No minimum sentence?

11 A. Yes.

12 Q. And those were dismissed on February 1st
13 of 2017; right?

14 A. Yes.

15 Q. And then you had an unlawful flight to
16 avoid prosecution, which is what we heard about
17 yesterday, where you had failed to register as a sex
18 offender; correct?

19 A. Yes.

20 Q. And you had left Valencia County, where
21 you'd asked to stay; right?

22 A. Yes.

23 Q. And where you told the Government that you
24 would be fine and you felt safe, yes?

25 A. Yep.

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1 Q. Do you know what happened to that unlawful
2 flight to avoid prosecution charge?

3 A. No.

4 Q. It was dismissed; right?

5 A. I believe so.

6 Q. It was dismissed almost on the same day it
7 was filed; right?

8 A. Actually no.

9 Q. Okay. Do you remember Special Agent Acee
10 on March 9, 2016 telling you, "I will tell you the
11 guy that killed Shane Dix already admitted to me
12 that he did it."

13 You said, "Um-hum." Do you remember that?

14 A. (Witness nods.)

15 Q. "And he got a deal. In fact, he's not
16 even in New Mexico, and he murdered somebody." Do
17 you remember that?

18 A. I don't remember that half.

19 Q. Okay. Would you like to review your
20 response to that?

21 A. No.

22 Q. Do you remember this was during the time
23 that Special Agent Acee on March 9 was trying to get
24 you to cooperate; right?

25 A. I'd already been told by him several times

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1 that he just wanted to enter me as a victim and
2 that's it. We discussed the cooperation part and he
3 and I both agreed that the victim thing would be
4 better for me.

5 Q. Well, he didn't tell you he wanted you to
6 be a victim. He told you: "Do we call him a
7 victim, or do we call him a suspect"; right?

8 A. Yeah.

9 Q. If you did not agree with him to
10 cooperate, he was going to charge you criminally
11 with a RICO.

12 A. Not necessarily true.

13 Q. As a member of the S, he was going to
14 charge you and keep RICOing people; right?

15 A. Yes.

16 Q. But instead, he explained what would
17 happen if you cooperated. Do you remember him
18 telling you in light of all your cooperation, the
19 judge will say, "Very good. I'm going to just
20 sentence you to probation. You don't have to be in
21 custody, but I have to put a case on you"?

22 A. Yes.

23 Q. And then he continued explaining the
24 process. "You're not going to get any more time
25 than you already get. Let's say you're facing two

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1 years in the state. That's the max you'd do in the
2 feds. We can ask him" -- meaning the judge -- "for
3 leniency. You can get probation. I give you my
4 word." Do you remember that?

5 A. Yes.

6 Q. That's a strong incentive; right?

7 A. Yes.

8 Q. That's a heck of a benefit to have a
9 federal agent promise you that you're going to get
10 probation; right?

11 A. Yes.

12 Q. You had a problem with what they were
13 proposing, though; right? You didn't understand the
14 way that they were proposing; is that fair to say?

15 A. Maybe.

16 Q. You were sitting in jail, and they're
17 telling that you they're going to charge you with a
18 federal case; right?

19 A. Yeah.

20 Q. And do you remember saying, "I'm signing
21 on and then having a federal thing over my head and
22 a state thing at the same time? Yeah, I'm not okay
23 with that." Do you remember?

24 A. Yeah.

25 Q. And that's how you felt; right?

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1 A. Yeah.

2 Q. I'm getting something for nothing;
3 right -- I'm not getting anything for anything;
4 sorry.

5 A. Exactly.

6 Q. And Special Agent Acee asked you, "What's
7 your hangup?" Do you remember telling him in
8 response: "It's one or the other"?

9 MS. ARMIJO: Objection, hearsay.

10 THE COURT: If it's being offered for the
11 truth, sustained.

12 BY MR. BENJAMIN:

13 Q. You wanted Special Agent Acee to elect
14 one; right? State or fed?

15 A. Yeah.

16 Q. And they told you they were going to elect
17 for the federal because they could have control over
18 you; right?

19 A. Yes.

20 Q. And he told you you would lose the state
21 case, as in -- not as in get convicted but as in
22 dismissed; right?

23 A. Will you repeat that?

24 Q. Okay. When you were trying to understand
25 what he was proposing, Special Agent Acee told you

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1 you would lose the state case. "If we didn't lose
2 the case, we wouldn't have a way to get you out.
3 You'd be stuck in jail"; right?

4 A. Yes.

5 Q. What did you understand him to say by "you
6 would lose the state case"?

7 A. I really don't know.

8 Q. You didn't understand that to mean that he
9 would get the district attorney to dismiss the state
10 case?

11 A. Yeah, but that never happened.

12 Q. You got out; right?

13 A. Yeah.

14 Q. And Special Agent Acee had told you you're
15 guaranteed to get out with us; right?

16 A. I don't remember him saying exactly those
17 word, but yes.

18 Q. And you got out?

19 A. Yes.

20 Q. I think I stepped on you. You got out;
21 right?

22 A. Yes.

23 Q. As you sit here today, are you facing any
24 federal charges?

25 A. No.

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1 MR. BENJAMIN: Nothing further.

2 THE COURT: Thank you, Mr. Benjamin.

3 Any defendants have cross-examination of
4 Mr. Gomez?

5 All right. Ms. Armijo, do you have
6 redirect?

7 REDIRECT EXAMINATION

8 BY MS. ARMIJO:

9 Q. Mr. Gomez, yesterday you were asked a
10 question about the tattoo that you have with the B
11 in Burque. Can you explain that as far as in
12 relationship to SNM?

13 A. What do you mean, the relationship to SNM
14 and the tattoo on my neck?

15 Q. What I meant is, you were asked a question
16 if Burque -- Burquenos are rivals of the SNM and
17 whether or not you were a member.

18 A. Yes.

19 Q. And you had wanted to explain something,
20 but you weren't given the opportunity in reference
21 to that situation.

22 A. Yes.

23 Q. Okay. Can you explain to the jury what
24 you wanted to say?

25 A. There is just a big difference. Burque or

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1 Burquenos, whatever you want to call it, it's just a
2 group of guys from Albuquerque that hang out
3 together. They end up in prison together, they do
4 time together. They're from the same town.

5 Other people, administration, or other
6 people have come to a decision on their own to call
7 them, like, Burquenos, or whatever, but they're
8 still a group of guys from Albuquerque. It's not a
9 clique. It's not a gang. They don't have to
10 recruit people. They don't kill people to recruit
11 people. They don't do all that stuff.

12 SNM is a different kind of thing. That is
13 a real prison clique and a gang. And that's the
14 difference. And they're not rivals. As of right
15 now, all that stuff is void right now.

16 Q. All right. Now, you were also asked a
17 great deal yesterday and this morning about how you
18 had some state charges and they were brought over to
19 the federal government. Do you recall those
20 questions?

21 A. Yes.

22 Q. And do you recall that actually happening,
23 that you were brought -- you had some state charges,
24 and then at one point you were charged federally to
25 go into federal custody? Do you recall that?

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1 A. Yes.

2 Q. Was there a concern for you being in state
3 custody?

4 A. Yes.

5 Q. And why was that a concern for you?

6 A. For my safety.

7 Q. You were also asked questions yesterday
8 about whether or not, in reference to -- prior to
9 the incident with the knife, if Joe Gallegos was
10 basically mad at you for stealing things from his
11 house. Do you recall those questions?

12 A. Yes.

13 Q. Did you steal anything from his house?

14 A. Never.

15 Q. Do you know -- what was his
16 ex-girlfriend's name? Mary?

17 A. Yes.

18 Q. And do you know -- and I don't want you to
19 tell me anything, what she said, but do you know
20 whether or not she told Joe anything? Let me
21 rephrase the question. Is it possible for her to
22 have told Joe Lawrence Gallegos something that
23 wasn't true?

24 MR. BENJAMIN: Objection, speculation as
25 phrased.

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1 THE COURT: Well, if you can lay a little
2 more foundation how he'd know that, I'll probably
3 allow the question. But --

4 MS. ARMIJO: All right.

5 BY MS. ARMIJO:

6 Q. Did Joe Lawrence Gallegos accuse you of
7 doing things in his house, such as stealing?

8 A. He accused me of several things, which she
9 told him that were a bunch of lies. And that's how
10 the whole thing started.

11 Q. All right. You were asked yesterday about
12 the term "jefe" and Brandy Rodriguez. Do you know
13 what "jefe" means in English?

14 A. Yes.

15 Q. What does it mean?

16 A. Like a father, dad, whatever.

17 Q. It doesn't mean "boss"?

18 A. Like a boss, yeah, a boss.

19 MR. BENJAMIN: Objection, Your Honor,
20 leading.

21 THE COURT: Sustained. Don't lead the
22 witness.

23 BY MS. ARMIJO:

24 Q. Are there other things that "jefe" means
25 besides father?

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1 A. Yes. You just said that one of them is a
2 boss, somebody that's above everybody.

3 Q. Someone that's above everybody?

4 A. Yeah.

5 Q. And I think I forgot to ask you this
6 yesterday. Do you have a nickname in the gang?

7 A. Excuse me?

8 Q. Did you have a nickname?

9 A. Yes.

10 Q. What's your nickname?

11 A. Tiny.

12 Q. Tiny?

13 A. Yeah.

14 MS. ARMIJO: Pass the witness, Your Honor.

15 THE COURT: Thank you, Ms. Armijo.

16 All right. Mr. Gomez, you may step down.

17 Is there any reason that Mr. Gomez cannot
18 be excused from the proceedings? Ms. Armijo?

19 MS. ARMIJO: No, Your Honor. Thank you.

20 THE COURT: How about from the defendants?

21 Any reason?

22 MR. BENJAMIN: No, Your Honor.

23 THE COURT: Not hearing or seeing any
24 objection, you are excused from the proceedings.

25 Thank you for your testimony.

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5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 13th day of May, 2018.

13

14

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